

## PATENT COOPERATION TREATY

## PCT

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 11 OCT 2005

WIPO

PCT

|  |   |   |
|--|---|---|
| Applicant's or agent's file reference<br>39496WOP00  | FOR FURTHER ACTION  | See Form PCT/IPEA/416                         |
| International application No.<br>PCT/IB2004/002202   | International filing date (day/month/year)<br>5 July 2004 | Priority date (day/month/year)<br>4 July 2003 |
| International Patent Classification (IPC) or national classification and IPC<br>Int. Cl. <sup>7</sup> E04B 1/64, 1/70, 2/72, E04F 13/00, E04H 9/16 |   |   |
| Applicant<br>JAMES HARDIE INTERNATIONAL FINANCE B.V. et al   |   |   |

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

|  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I  | Basis of the report   |
| <input type="checkbox"/> Box No. II            | Priority  |
| <input type="checkbox"/> Box No. III           | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV            | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V  | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> Box No. VI | Certain documents cited   |
| <input type="checkbox"/> Box No. VII           | Certain defects in the international application  |
| <input type="checkbox"/> Box No. VIII          | Certain observations on the international application   |

|   |   |
|---|---|
| Date of submission of the demand<br>28 April 2005   | Date of completion of the report<br>22 September 2005             |
| Name and mailing address of the IPEA/AU<br>AUSTRALIAN PATENT OFFICE<br>PO BOX 200, WODEN ACT 2606, AUSTRALIA<br>E-mail address: pct@ipaaustralia.gov.au<br>Facsimile No. (02) 6285 3929 | Authorized Officer<br><br>JOHN HO<br>Telephone No. (02) 6283 2329 |

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/TB2004/002202

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:

☐ international search (under Rules 12.3 and 23.1 (b))

☐ publication of the international application (under Rule 12.4)

☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

☒ the international application as originally filed/furnished

☐ the description:

pages as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ the claims:

pages as originally filed/furnished

pages\* as amended (together with any statement) under Article 19

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ the drawings:

pages as originally filed/furnished

pages\* received by this Authority on with the letter of

pages\* received by this Authority on with the letter of

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

☐ the description, pages

☐ the claims, Nos.

☐ the drawings, sheets/figs

☐ the sequence listing (*specify*):

☐ any table(s) related to the sequence listing (*specify*):

\* If item 4 applies, some or all of those sheets may be marked "superseded."

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2004/002202

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

|                               |             |     |
|-------------------------------|-------------|-----|
| Novelty (N)                   | Claims 1-48 | YES |
|                               | Claims -    | NO  |
| Inventive step (IS)           | Claims 1-48 | YES |
|                               | Claims -    | NO  |
| Industrial applicability (IA) | Claims 1-48 | YES |
|                               | Claims -    | NO  |

## 2. Citations and explanations (Rule 70.7)

The following documents identified in the International Search Report have been considered for the purposes of this report:

D2 – US 6233890

D3 – CA 1298454

D4 – US 5027572

### NOVELTY (N)

The present invention is directed to a rainscreen apparatus including a substantially rigid air barrier adapted for attachment to a building structure, a rainscreen panel adapted for attachment over the air barrier, a spacing member adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means adapted to provide substantial pressure equalisation within the clearance space.

None of the citations discloses the invention as defined.

The closest art, D2, discloses a sheathing membrane which allows water to drain from a cavity or space between the membrane and an exterior wall member. D2 does not disclose the use of a rigid air barrier nor does it disclose the use of sealing means to provide substantial pressure equalisation of the clearance space between the air barrier and the exterior rainscreen panel.

D3 refers to the use of cavities between adjacent panels mounted on a frame. The cavities are pressure equalised with the exterior to prevent water penetrating into the cavities. D3 however does not disclose the use of rainscreen panel attached over a substantially rigid air barrier to provide a clearance spacing therebetween, and the use of a sealing means to provide substantial pressure equalisation within the clearance space.

D4 refers to a moisture and vapour barrier in an exterior insulation finish system. D4 fails to disclose a clearance space between a rainscreen panel and a substantially rigid air barrier.

Therefore the subject matter of claims 1-48 is new and meets the requirements of Article 33(2) PCT with regard to novelty.

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/IB2004/002202

## Box No. VI Certain documents cited

### 1. Certain published documents (Rule 70.10)

| <u>Application No.</u><br><u>Patent No.</u> | <u>Publication date</u><br><u>(day/month/year)</u> | <u>Filing date</u><br><u>(day/month/year)</u> | <u>Priority date ( valid claim)</u><br><u>(day/month/year)</u> |
|---|--|---|--|
| US 6745531                                  | 8 June 2004  | 31 July 2001                                  | 31 July 2001   |

### 2. Non-written disclosures (Rule 70.9)

| <u>Kind of non-written disclosure</u> | <u>Date of non-written disclosure</u><br><u>(day/month/year)</u> | <u>Date of written disclosure</u><br><u>referring to non-written disclosure</u><br><u>(day/month/year)</u> |
|---------------------------------------|--|--|
|                                       |  |  |

**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

**INVENTIVE STEP (IS)**

Claims 1-48 also meet the criteria set out in PCT Article 33(3) with regard to the requirement of Inventive Step because the prior art does not obviously suggest to a person skilled in the art the use of a rainscreen apparatus including a substantially rigid air barrier adapted for attachment to a building structure, a rainscreen panel adapted for attachment over the air barrier, a spacing member adapted to provide a clearance space between the air barrier and the rainscreen panel; and sealing means adapted to provide substantial pressure equalisation within the clearance space.

**INDUSTRIAL APPLICABILITY (IA)**

The claims are related to products capable of commercial application.

With regard to the document(s) listed in Box VI under "certain documents cited", these are documents published prior to the international filing date but later than the priority date claimed but which would otherwise be considered to be of particular relevance.

Under the PCT, novelty is considered only in respect of documents published before the priority date. The relevance of a document published after the priority date is dependent upon national law. Such documents are excluded from consideration in preliminary examination, under the PCT Guidelines but have been included here for information.

The citation US 6745531 appears to disclose the invention defined by claims 1-13, 17-22, 26-28 and 30-42.